MONTANA SENATE
2007 LEGISLATURE

ROLL CALL

TAXATION

DATE 2-23-07

NAMES	PRESENT	ABSENT	EXCUSED
SEN. JERRY BLACK (R)	✓		
SEN. JEFF ESSMANN (R)	✓		
SEN. KELLY GEBHARDT(R)	✓		
SEN. KIM GILLAN (D)	✓		
SEN. DAN HARRINGTON (D)	✓		
SEN. CHRISTINE KAUFMANN (D)	✓		
SEN. SAM KITZENBERG (D)	✓		
SEN. JIM PETERSON (R)	✓		
SEN. TRUDI SCHMIDT (D)			✓
SEN. ROBERT STORY (R)	✓		
SEN. JIM ELLIOTT (D) CHAIRMAN	✓		
LEE HEIMAN, LSD	✓		
LOIS O'CONNOR, COMMITTEE SECRETARY	✓		

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Taxation** recommend that **Senate Bill 533** (first reading copy -- white) **do pass as amended.**

Signed: Elliott
Senator Jim Elliott, Chair

And, that such amendments read:

1. Title, line 8.
Strike: "AND"
Insert: ","

2. Title, line 8.
Following: "DATE"
Insert: ", AND A TERMINATION DATE"

3. Page 1.
Following: line 25
Insert: "NEW SECTION. **Section 4. Termination.** [This act] terminates July 1, 2009."

- END -

Committee Vote:
Yes 8, No 2
Fiscal Note Required ___ KF

411216SC.ssc

SENATE STANDING COMMITTEE REPORT

February 23, 2007

Mr. President:

We, your committee on **Taxation** recommend that **Senate Bill 483** (first reading copy -- white) **do pass**.

Signed: Elliott
Senator Jim Elliott, Chair

- END -

Committee Vote:
Yes 6, No 5
Fiscal Note Required ___ KT

411214SC.ssc

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Taxation** recommend that **Senate Bill 514** (first reading copy -- white) **do pass as amended.**

Signed: Elliott
Senator Jim Elliott, Chair

And, that such amendments read:

1. Page 2, line 3.
Following: "(a)"
Insert: "(i)"
Strike: "subsection"
Insert: "subsections (2)(a)(ii) and"

2. Page 2, line 4.
Strike: "1.2%"
Insert: "0.5%"

3. Page 2, line 4 through line 6.
Strike: "The" on line 4 through "return." on line 6

4. Page 2.
Following: line 6
Insert: "(ii) A penalty under this subsection (2)(a) may not be imposed on a taxpayer subject to taxation under 15-30-103 if, subject to the conditions of 15-30-241(1)(a)(i), the taxpayer pays tax when due of at least 90% of the tax for the current year."

5. Page 2, line 8.
Strike: "or fraction of a month"

6. Page 2, line 8 through line 10.
Strike: "The" on line 8 through "return." on line 10

Committee Vote:
Yes 11, No 0
Fiscal Note Required ___ KF

7. Page 2, line 25.
Following: "12%"
Insert: "a year"

8. Page 2.
Following: line 12
Insert: "(c) The penalty imposed under subsection (2)(a) or (2)(b) accrues daily on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing a return."

9. Page 11, line 23.
Following: "date."
Insert: "(1)"
Strike: "[This act]"
Insert: "Except as provided in subsection (2), [this act]"

10. Page 11.
Following: line 23
Insert: "(2) [Sections 1(2) and 3 and this section] are effective on passage and approval."

11. Page 11, line 25.
Strike: "subsection"
Insert: "subsections"
Following: "(2)"
Insert: "and (3)"

12. Page 11.
Following: line 28
Insert: "(3) [Section 1(2) and 3] apply retroactively, within the meaning of 1-2-109, to tax periods beginning after December 31, 2006."

- END -

SENATE STANDING COMMITTEE REPORT

February 23, 2007
Page 1 of 1

Mr. President:

We, your committee on **Taxation** recommend that **Senate Bill 378** (first reading copy -- white) **do pass as amended.**

Signed: Elliott
Senator Jim Elliott, Chair

And, that such amendments read:

1. Title, line 6 through line 7.
Strike: "REQUIRING" on line 6 through "CODE;" on line 7

2. Page 1, line 16 through line 21.
Strike: subsection (2) in its entirety
Insert: "(2) If a term is not defined in this chapter, the term has the same meaning as it does when used in a comparable context in the internal revenue code."

3. Page 1, line 27 through page 2, line 2.
Strike: subsection (2) in its entirety
Insert: "(2) If a term is not defined in this chapter, the term has the same meaning as it does when used in a comparable context in the internal revenue code."

- END -

Committee Vote:
Yes 11, No 0
Fiscal Note Required ___ KA

411215SC.ssc

SENATE STANDING COMMITTEE REPORT

February 24, 2007

Mr. President:

We, your committee on **Taxation** recommend that **Senate Bill 220** (first reading copy -- white) **do pass as amended.**

Signed: ______________________
Senator Jim Elliott, Chair

And, that such amendments read:

1. Page 2, line 19.
Strike: "director of revenue"
Insert: "department"

2. Page 2, line 28 through page 3, line 3.
Strike: ", and" on page 2, line 28 through "benefit" on page 3, line 3.

3. Page 3, line 12.
Following: "31."
Insert: "As used in this subsection, "significant purpose" has the same meaning given the term under federal tax law."

4. Page 5, line 2.
Strike: "director of revenue"
Insert: "department"

5. Page 6, line 28.
Strike: "director of revenue"
Insert: "department"

6. Page 7, line 30.
Strike: "director of revenue"
Insert: "department"

7. Page 9, line 13.
Strike: "director of revenue"
Insert: "department"

Committee Vote:
Yes 6, No 5
Fiscal Note Required ___

8. Page 10, line 19.
Strike: "director of revenue"
Insert: "department"

9. Page 10, line 25.
Strike: "director of revenue"
Insert: "department"

10. Page 11, line 2.
Strike: "director of revenue"
Insert: "department"
Strike: "An"
Insert: "If the person is an individual who resides in Montana, an action under this section must be brought in the county in which the individual resides. If the person is not an individual who resides in Montana, an"

11. Page 11, line 13 through line 16.
Strike: **"Power of director of revenue"** on line 13
Insert: **"Potential for evasion of tax -- tax evasion transactions"**
Strike: "In" on line 13 through "shall" on line 16
Insert: "The department may not specifically identify a transaction or arrangement as a tax evasion transaction unless the department"

12. Page 11, line 17.
Strike: "consult"
Insert: "consults"

13. Page 11, line 18.
Strike: "consider"
Insert: "considers"
Following: "arrangement"
Insert: "involves some combination of the following"

14. Page 11, line 20.
Following: "in"
Insert: "purposely"

15. Page 11, line 21.
Following: "investments;"
Strike: "or"

16. Page 11, line 22.
Following: "parties;"
Insert: "or

(v) was marketed to multiple investors;"

17. Page 11, line 23.
Strike: "consider"
Insert: "considers"

18. Page 11, line 25.
Strike: "consider"
Insert: "considers"

19. Page 11, line 28.
Strike: "determine"
Insert: "determines"
Strike: "consider"
Insert: "considers"

20. Page 11, line 29 through line 30.
Strike: "reportable" on line 29 through "each" on line 30

21. Page 12, line 1.
Strike: "director of revenue"
Insert: "department"

22. Page 12.
Following: line 2
Insert: "(3) The department shall file a report with each rule proposal notice when it proposes to adopt a rule to identify a listed transaction, setting forth how it applied the criteria listed in subsection (1) in proposing to identify a transaction or arrangement as a listed transaction."
Renumber: subsequent subsection

23. Page 12, line 6.
Strike: "14"
Insert: "13"

24. Page 12, line 9.
Strike: "14"
Insert: "13"

25. Page 13, line 1.
Following: page 12
Strike: "A"
Insert: "(1) Subject to subsection (2), a"

26. Page 13.
Following: line 5

Insert: "(2) A taxpayer is subject to the provisions of [section 10, 11, 12, or 13] for any tax year:
(a) for which the taxpayer or a combined reporting group of which the taxpayer is a member:
(i) is required to file internal revenue service schedule M-3 with its federal tax return; and
(ii) is subject to allocation and apportionment under 15-31-301; and
(b) in which the Montana apportionment percentage, as shown on the taxpayer's Montana tax return, is less than 20%."

27. Page 14, line 18.
Strike: "director of revenue"
Insert: "department"

28. Page 15, line 11.
Strike: "director of revenue"
Insert: "department"

29. Page 15, line 13.
Strike: "14"
Insert: "13"

30. Page 15, line 15 through line 22.
Strike: section 14 in its entirety
Renumber: subsequent sections

31. Page 15, line 24.
Strike: "15"
Insert: "14"
Strike: "17"
Insert: "16"

32. Page 15, line 27.
Strike: "15"
Insert: "14"
Strike: "17"
Insert: "16"

33. Page 16, line 6.
Strike: "17(6)"
Insert: "16(6)"

34. Page 16, line 9.
Strike: "15"
Insert: "14"
Strike: "17"
Insert: "16"

35. Page 16, line 17.
Strike: "15"
Insert: "14"
Strike: "17"
Insert: "16"

36. Page 16, line 30.
Strike: "14"
Insert: "13"

37. Page 17, line 9.
Strike: "14"
Insert: "13"

38. Page 17, line 16.
Strike: "[section 16] or"

39. Page 18, line 10.
Strike: "16"
Insert: "15"

40. Page 18, line 19.
Strike: "15"
Insert: "14"
Strike: "17"
Insert: "16"

41. Page 18, line 22.
Strike: "15"
Insert: "14"
Strike: "17"
Insert: "16"

42. Page 18, line 24.
Strike: "18"
Insert: "17"
Strike: "23"
Insert: "22"

43. Page 18, line 27.
Strike: "18"
Insert: "17"
Strike: "23"
Insert: "22"

44. Page 19, line 13.
Strike: "21"
Insert: "20"

45. Page 19, line 20.
Strike: "20"
Insert: "19"

46. Page 20, line 13.
Strike: "20"
Insert: "19"

47. Page 20, line 14.
Strike: "21"
Insert: "20"

48. Page 20, line 22.
Strike: "20"
Insert: "19"

49. Page 20, line 29.
Strike: "18"
Insert: "17"
Strike: "23"
Insert: "22"

50. Page 22, line 17.
Strike: "Except as provided in subsection (5)(b), the"
Insert: "The"

51. Page 22, line 18.
Strike: ", directly or indirectly,"

52. Page 22, line 20 through line 23.
Following: "(b)"
Strike: the remainder of subsection (b) in its entirety
Insert: "(i) The department shall, by rule, establish reporting requirements that would not allow multiple business identities to be formed to obtain multiple exemption thresholds for what are functionally single businesses. The rules may require individual and taxpayer identification numbers for pass-through entities, as defined in 15-30-101, and their owners, partners, and officers to allow the department to track exemptions through the entities.

(ii) Whenever one member of a firm or one of the proper officers of a corporation has made a statement showing the property of the firm or corporation, another member of the firm or another officer is not required to include the property in that person's statement but the statement must show the name of the person or officer who made the statement in which the property is included.

(iii) The fact that a statement is not required or that a person has not made a statement, under oath or otherwise, does not relieve the person's property from taxation."

53. Page 22, line 25.
Strike: "14"
Insert: "13"

54. Page 22, line 26.
Strike: "14"
Insert: "13"

55. Page 22, line 27.
Strike: "18"
Insert: "17"
Strike: "23"
Insert: "22"

56. Page 22, line 28.
Strike: "18"
Insert: "17"
Strike: "23"
Insert: "22"

57. Page 23, line 20.
Strike: "18"
Insert: "17"
Strike: "23"
Insert: "22"

- END -

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Taxation** recommend that **Senate Bill 539** (first reading copy -- white) **do pass as amended.**

Signed: Elliott
Senator Jim Elliott, Chair

And, that such amendments read:

1. Page 2, line 13.
Following: "was"
Insert: ":
(a)"
Following: "15-23-101"
Insert: ";"
Following: "or"
Insert: "(b)"

2. Page 2, line 14.
Following: "15-8-404(4)"
Insert: "and subject to direct appeal to the state tax appeal board pursuant to [section 4(1)]"

3. Page 2, line 24.
Following: "section."
Insert: "A county may not elect to participate in the program unless the protested property taxes on specially assessed industrial property are directly appealed to the state tax appeal board. The direct appeal must be agreed to by the county tax appeal board, in consultation with the board of county commissioners, or by the taxpayer and the department."

4. Page 2, line 25.
Following: "January 31"

Committee Vote:
Yes 6, No 5
Fiscal Note Required ___ K7

420917SC.ssc

Insert: "for taxes on centrally assessed property and on or before August 31 for taxes on specially assessed industrial property that is subject to direct appeal to the state tax appeal board pursuant to subsection (1)"

5. Page 21, line 19 through line 20.
Strike: "under direct or indirect common control," on lines 19 and 20
Strike: "$10" on line 20
Insert: "$5"
Following: "as"
Insert: "potential"

6. Page 21, line 21.
Following: "of"
Insert: "potential"
Following: "where"
Insert: ","

7. Page 21, line 22.
Strike: "or"
Following: "whom"
Insert: ", or by what methods"
Following: "assessed."
Insert: "If a direct appeal to the state tax appeal board is agreed to by the county tax appeal board, in consultation with the board of county commissioners, or by the taxpayer and the department, the potential specially assessed industrial property becomes specially assessed industrial property."

8. Page 22.
Following: line 27
Insert: "(4) A direct appeal to the state tax appeal board of specially assessed industrial property may be permitted by the county tax appeal board in consultation with the board of county commissioners or may be agreed to by the taxpayer and the department."

- END -

COMMITTEE FILE COPY

TABLED BILL

The **SENATE TAXATION COMMITTEE** TABLED **SB 496**, by motion, on **Friday, February 23, 2007**.

Lois Ann O'Connor
(For the Committee)

KT
(Secretary of the Senate)

_____ / 2-23
(Time) (Date)

February 23, 2007 Lois A. O'Connor, Secretary Phone: 444-4772

MONTANA STATE SENATE
2007 LEGISLATURE

TAXATION

ROLL CALL VOTE

DATE 2-23-07 **BILL NO.** SB-220 **NUMBER** ______

MOTION: Do Pass As Amended

Passed 6-5

NAME	AYE	NO
SEN. JERRY BLACK (R)		✓
SEN. JEFF ESSMANN (R)		✓
SEN. KELLY GEBHARDT(R)		✓
SEN. KIM GILLAN (D)	✓	
SEN. DAN HARRINGTON (D)	✓	
SEN. CHRISTINE KAUFMANN (D)	✓	
SEN. SAM KITZENBERG (D)	✓	
SEN. JIM PETERSON (R)		✓
SEN. TRUDI SCHMIDT (D)	✓	
SEN. ROBERT STORY (R)		✓ Proxy
SEN. JIM ELLIOTT (D) CHAIRMAN	✓	
	6	5

MONTANA STATE SENATE
2007 LEGISLATURE

TAXATION

ROLL CALL VOTE

DATE 2-23-07 **BILL NO.** SB-539 **NUMBER** ______

MOTION: Sen. Essmann Conceptual amendment

NAME	AYE	NO
SEN. JERRY BLACK (R)		✓
SEN. JEFF ESSMANN (R)	✓	
SEN. KELLY GEBHARDT(R)	✓	
SEN. KIM GILLAN (D)		✓ P
SEN. DAN HARRINGTON (D)		✓ P
SEN. CHRISTINE KAUFMANN (D)		✓ P
SEN. SAM KITZENBERG (D)		✓
SEN. JIM PETERSON (R)	✓	
SEN. TRUDI SCHMIDT (D)		✓ P
SEN. ROBERT STORY (R)	✓	
SEN. JIM ELLIOTT (D) CHAIRMAN		✓
	4	7

MONTANA STATE SENATE
2007 LEGISLATURE

TAXATION

ROLL CALL VOTE

DATE 2-23-07 BILL NO. SB-539 NUMBER ____________

MOTION: Do Pass As Amended

Passed 6-5

NAME	AYE	NO	
SEN. JERRY BLACK (R)		✓	
SEN. JEFF ESSMANN (R)		✓	
SEN. KELLY GEBHARDT(R)		✓	P
SEN. KIM GILLAN (D)	✓		
SEN. DAN HARRINGTON (D)	✓		P
SEN. CHRISTINE KAUFMANN (D)	✓		P
SEN. SAM KITZENBERG (D)	✓		
SEN. JIM PETERSON (R)		✓	
SEN. TRUDI SCHMIDT (D)	✓		P
SEN. ROBERT STORY (R)		✓	
SEN. JIM ELLIOTT (D) CHAIRMAN	✓		
	6	5	

SENATE PROXY FORM

According to Senate Rule 30-70 (13) (f) , a committee member may vote by proxy using a standard form.

PROXY VOTE

I, the undersigned, hereby authorize Senator Elliot

to vote my proxy on any issue before the Senate

Tax Committee

held on 2/23/07 Friday, 2007.

Christine Kaufmann

SENATOR
STATE OF MONTANA

SENATE PROXY FORM

According to Senate Rule 30-70 (13) (f) , a committee member may vote by proxy using a standard form.

PROXY VOTE

I, the undersigned, hereby authorize Senator Story

to vote my proxy on any issue before the Senate Taxation Committee

held on 2-23-07, 2007.

SB 539
Essmann Amend yes
Bill No!

Kelly Gebhardt
SENATOR
STATE OF MONTANA

SENATE PROXY FORM

According to Senate Rule 30-70 (13) (f) , a committee member may vote by proxy using a standard form.

PROXY VOTE

I, the undersigned, hereby authorize Senator Elliott

to vote my proxy on any issue before the Senate Tax

Committee

held on 2-23-07, 2007.

Essmann Conceptual amendm NO
SB539 yes Do pass Amnd

SENATOR
STATE OF MONTANA

SENATE PROXY FORM

According to Senate Rule 30-70 (13) (f) , a committee member may vote by proxy using a standard form.

PROXY VOTE

I, the undersigned, hereby authorize Senator Gillan

to vote my proxy on any issue before the Senate Tax

Committee

held on Feb 23, 2007, 2007.

SB483 NO
SB533 AYE
SB514 AYE
SB378 AYE
SB220 AYE
SB 539 Amendment NO

Fredi Schmidt
SENATOR
STATE OF MONTANA

SB539 YES

MONTANA STATE SENATE
2007 LEGISLATURE

VISITOR REGISTER

TAXATION

DATE February 23, 2007

BILLS BEING HEARD TODAY Executive Action

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
BRENDA Gilmer	444-3339	DOR	SB200		
BRENDA GILMER	" "	" "	SB539	X	
Gene Walborn	4-0908	DOR	SB539	X	

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Amendments to Senate Bill No. 514
1st Reading Copy

Requested by Senator Joe Balyeat

For the Senate Taxation Committee

Prepared by Jeff Martin
February 23, 2007 (12:33pm)

1. Page 2, line 3.
Following: "(a)"
Insert: "(i)"
Strike: "subsection"
Insert: "subsections (2)(a)(ii) and"

2. Page 2, line 4.
Strike: "1.2%"
Insert: "0.5%"

3. Page 2, line 4 through line 6.
Strike: "The" on line 4 through "return." on line 6

4. Page 2.
Following: line 6
Insert: "(ii) A penalty under this subsection (2)(a) may not be imposed on a taxpayer subject to taxation under 15-30-103 if, subject to the conditions of 15-30-241(1)(a)(i), the taxpayer pays tax when due of at least 90% of the tax for the current year."

5. Page 2, line 8.
Strike: "or fraction of a month"

6. Page 2, line 8 through line 10.
Strike: "The" on line 8 through "return." on line 10

7. Page 2, line 25.
Following: "12%"
Insert: "a year"

8. Page 2.
Following: line 12
Insert: "(c) The penalty imposed under subsection (2)(a) or (2)(b) accrues daily on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing a return."

9. Page 11, line 23.
Following: "date."
Insert: "(1)"
Strike: "[This act]"
Insert: "Except as provided in subsection (2), [this act]"

10. Page 11.
Following: line 23
Insert: "(2) [Sections 1(2) and 3 and this section] are effective on passage and approval."

11. Page 11, line 25.
Strike: "subsection"
Insert: "subsections"
Following: "(2)"
Insert: "and (3)"

12. Page 11.
Following: line 28
Insert: "(3) [Section 1(2) and 3] apply retroactively, within the meaning of 1-2-109, to tax periods beginning after December 31, 2006."

- END -

Amendments to Senate Bill No. 220
1st Reading Copy

Adopted by Committee

For the Senate Taxation Committee

Prepared by Lee Heiman
February 23, 2007 (3:09pm)

1. Page 2, line 19.
Strike: "director of revenue"
Insert: "department"

2. Page 2, line 28 through page 3, line 3.
Strike: ", and" on page 2, line 28 through "benefit" on page 3, line 3.

3. Page 3, line 12.
Following: "31."
Insert: "As used in this subsection, "significant purpose" has the same meaning given the term under federal tax law."

4. Page 5, line 2.
Strike: "director of revenue"
Insert: "department"

5. Page 6, line 28.
Strike: "director of revenue"
Insert: "department"

6. Page 7, line 30.
Strike: "director of revenue"
Insert: "department"

7. Page 9, line 13.
Strike: "director of revenue"
Insert: "department"

8. Page 10, line 19.
Strike: "director of revenue"
Insert: "department"

9. Page 10, line 25.
Strike: "director of revenue"
Insert: "department"

10. Page 11, line 2.
Strike: "director of revenue"
Insert: "department"

Strike: "An"
Insert: "If the person is an individual who resides in Montana, an action under this section must be brought in the county in which the individual resides. If the person is not an individual who resides in Montana, an"

11. Page 11, line 13 through line 16.
Strike: **"Power of director of revenue"** on line 13
Insert: **"Potential for evasion of tax -- tax evasion transactions"**
Strike: "In" on line 13 through "shall" on line 16
Insert: "The department may not specifically identify a transaction or arrangement as a tax evasion transaction unless the department"

12. Page 11, line 17.
Strike: "consult"
Insert: "consults"

13. Page 11, line 18.
Strike: "consider"
Insert: "considers"
Following: "arrangement"
Insert: "involves some combination of the following"

14. Page 11, line 20.
Following: "in"
Insert: "purposely"

15. Page 11, line 21.
Following: "investments;"
Strike: "or"

16. Page 11, line 22.
Following: "parties;"
Insert: "or
(v) was marketed to multiple investors;"

17. Page 11, line 23.
Strike: "consider"
Insert: "considers"

18. Page 11, line 25.
Strike: "consider"
Insert: "considers"

19. Page 11, line 28.
Strike: "determine"
Insert: "determines"

Strike: "consider"
Insert: "considers"

20. Page 11, line 29 through line 30.
Strike: "reportable" on line 29 through "each" on line 30

21. Page 12, line 1.
Strike: "director of revenue"
Insert: "department"

22. Page 12.
Following: line 2
Insert: "(3) The department shall file a report with each rule proposal notice when it proposes to adopt a rule to identify a listed transaction, setting forth how it applied the criteria listed in subsection (1) in proposing to identify a transaction or arrangement as a listed transaction."
Renumber: subsequent subsection

23. Page 12, line 6.
Strike: "14"
Insert: "13"

24. Page 12, line 9.
Strike: "14"
Insert: "13"

25. Page 13, line 1.
Following: page 12
Strike: "A"
Insert: "(1) Subject to subsection (2), a"

26. Page 13.
Following: line 5
Insert: "(2) A taxpayer is subject to the provisions of [section 10, 11, 12, or 13] for any tax year:

(a) for which the taxpayer or a combined reporting group of which the taxpayer is a member:

(i) is required to file internal revenue service schedule M-3 with its federal tax return; and

(ii) is subject to allocation and apportionment under 15-31-301; and

(b) in which the Montana apportionment percentage, as shown on the taxpayer's Montana tax return, is less than 20%."

27. Page 14, line 18.
Strike: "director of revenue"
Insert: "department"

28. Page 15, line 11.
Strike: "director of revenue"
Insert: "department"

29. Page 15, line 13.
Strike: "14"
Insert: "13"

30. Page 15, line 15 through line 22.
Strike: section 14 in its entirety
Renumber: subsequent sections

31. Page 15, line 24.
Strike: "15"
Insert: "14"
Strike: "17"
Insert: "16"

32. Page 15, line 27.
Strike: "15"
Insert: "14"
Strike: "17"
Insert: "16"

33. Page 16, line 6.
Strike: "17(6)"
Insert: "16(6)"

34. Page 16, line 9.
Strike: "15"
Insert: "14"
Strike: "17"
Insert: "16"

35. Page 16, line 17.
Strike: "15"
Insert: "14"
Strike: "17"
Insert: "16"

36. Page 16, line 30.
Strike: "14"
Insert: "13"

37. Page 17, line 9.
Strike: "14"
Insert: "13"

38. Page 17, line 16.

Strike: "[section 16] or"

39. Page 18, line 10.
Strike: "16"
Insert: "15"

40. Page 18, line 19.
Strike: "15"
Insert: "14"
Strike: "17"
Insert: "16"

41. Page 18, line 22.
Strike: "15"
Insert: "14"
Strike: "17"
Insert: "16"

42. Page 18, line 24.
Strike: "18"
Insert: "17"
Strike: "23"
Insert: "22"

43. Page 18, line 27.
Strike: "18"
Insert: "17"
Strike: "23"
Insert: "22"

44. Page 19, line 13.
Strike: "21"
Insert: "20"

45. Page 19, line 20.
Strike: "20"
Insert: "19"

46. Page 20, line 13.
Strike: "20"
Insert: "19"

47. Page 20, line 14.
Strike: "21"
Insert: "20"

48. Page 20, line 22.
Strike: "20"
Insert: "19"

49. Page 20, line 29.
Strike: "18"
Insert: "17"
Strike: "23"
Insert: "22"

50. Page 22, line 17.
Strike: "Except as provided in subsection (5)(b), the"
Insert: "The"

51. Page 22, line 18.
Strike: ", directly or indirectly,"

52. Page 22, line 20 through line 23.
Following: "(b)"
Strike: the remainder of subsection (b) in its entirety
Insert: "(i) The department shall, by rule, establish reporting requirements that would not allow multiple business identities to be formed to obtain multiple exemption thresholds for what are functionally single businesses. The rules may require individual and taxpayer identification numbers for pass-through entities, as defined in 15-30-101, and their owners, partners, and officers to allow the department to track exemptions through the entities.

(ii) Whenever one member of a firm or one of the proper officers of a corporation has made a statement showing the property of the firm or corporation, another member of the firm or another officer is not required to include the property in that person's statement but the statement must show the name of the person or officer who made the statement in which the property is included.

(iii) The fact that a statement is not required or that a person has not made a statement, under oath or otherwise, does not relieve the person's property from taxation."

53. Page 22, line 25.
Strike: "14"
Insert: "13"

54. Page 22, line 26.
Strike: "14"
Insert: "13"

55. Page 22, line 27.
Strike: "18"
Insert: "17"
Strike: "23"
Insert: "22"

56. Page 22, line 28.

Strike: "18"
Insert: "17"
Strike: "23"
Insert: "22"

57. Page 23, line 20.
Strike: "18"
Insert: "17"
Strike: "23"
Insert: "22"

- END -

Amendments to Senate Bill No. 539
1st Reading Copy

For the Senate Taxation Committee

Prepared by Lee Heiman
February 23, 2007 (3:43pm)

1. Page 2, line 13.
Following: "was"
Insert: ":
(a)"
Following: "15-23-101"
Insert: ";"
Following: "or"
Insert: "(b)"

2. Page 2, line 14.
Following: "15-8-404(4)"
Insert: "and subject to direct appeal to the state tax appeal board pursuant to [section 4(1)]"

3. Page 2, line 24.
Following: "section."
Insert: "A county may not elect to participate in the program unless the protested property taxes on specially assessed industrial property are directly appealed to the state tax appeal board. The direct appeal must be agreed to by the county tax appeal board, in consultation with the board of county commissioners, or by the taxpayer and the department."

4. Page 2, line 25.
Following: "January 31"
Insert: "for taxes on centrally assessed property and on or before August 31 for taxes on specially assessed industrial property that is subject to direct appeal to the state tax appeal board pursuant to subsection (1)"

5. Page 21, line 19 through line 20.
Strike: "<u>under direct or indirect common control,</u>" on lines 19 and 20
Strike: "<u>$10</u>" on line 20
Insert: "$5"
Following: "<u>as</u>"
Insert: "potential"

6. Page 21, line 21.
Following: "<u>of</u>"
Insert: "potential"
Following: "<u>where</u>"
Insert: ","

7. Page 21, line 22.
Strike: "<u>or</u>"
Following: "<u>whom</u>"
Insert: ", or by what methods"
Following: "assessed."
Insert: "If a direct appeal to the state tax appeal board is agreed to by the county tax appeal board, in consultation with the board of county commissioners, or by the taxpayer and the department, the potential specially assessed industrial property becomes specially assessed industrial property."

8. Page 22.
Following: line 27
Insert: "(4) A direct appeal to the state tax appeal board of specially assessed industrial property may be permitted by the county tax appeal board in consultation with the board of county commissioners or may be agreed to by the taxpayer and the department."

- END -

Phone Message | *Message #* **5441** | *Operator* **CL0055** | *Message taken:* **2/21/2007 9:20:51 AM**

Caller **Bob DePratu**
Title/Company

P.O. Box 1217
Whitefish, MT 59937-

Home Ph. (406)8-62--2849 Work Ph. 800-7 Cell Ph. 406-253-6383

Senate
SEN. AUBYN CURTISS
Seat No. **11**

CallBack ☐

Vote FOR SB 496: Constitutional amendment to allow acquisition value for property taxation.

Please seriously consider this bill. Senior citizens need the ablitity to freeze their property taxes so they can stay in their homes.

SB 496

Chas Vincent
Representative HD 2 (Lincoln County)
5957 Champion RD
Libby, MT 59923

Members of the Senate Taxation Committee:

I write to you in support of SB 496. After spending many days going door to door asking voters what they are looking for from the legislature, I came here to Helena knowing one thing was for sure. Property owners want tax relief; particularly those citizens who are retired, and are on fixed incomes.

Most of these citizens like many Montanans are good blue collar workers who have spent many years earning their homes and properties to retire on. Many of them made quality of life decisions years prior that required sacrificing on salary in order to live in the place that they love. These people have worked hard to earn what they have, positioning themselves so that they can retire in modest fashion.

Senator Curtis knows these realities as well as anyone, being a part of the culture and heritage that I am describing. Aubyn also knows the stark reality that many of our citizens are struggling with, and I applaud her vision of hope for them in SB 496.

SB 496 looks to help the many Montanans that find themselves in danger of losing what has taken a lifetime to acquire by providing stable tax assessments. As many of the beautiful remote havens in our state get discovered, residents like those in my county find newcomers around every corner looking for a chunk of the 'last best place'. The limited amount of

PROPONENTS FOR SB 496
Heard February 19th

Bob De Pratu, former senator, Whitefish

Glenn Garrison, Troy

Fred Hodgeboom, Montanans for Multiple Use, Kalispell

Joe Arts, Troy

Clarice Ryan, Bigfork

Gina Klemple, Kalispell

Paul Derrow, Fortine

Jon Leonard, Glacier Bank, Eureka

James Rathbun, former SO, Kootenai National Forest, Libby

Betty ~~Ward,~~ Libby personal message included

Gary Hall, Olney

Marian Hanson, Ashland

Rep Ralph Heinert Libby

Rep Chas Vincent, "

aubyna

From: "Chas Vincent" <cvvincent@hotmail.com>
To: <aubyna@interbel.net>
Sent: Sunday, February 18, 2007 8:37 PM
Subject: RE: Need yer help

I called and talked with my brother-in-law who has been scouring the bottom part of the county for the past 6 months looking for a chunk he could afford. The average cost in his etimation is between 15K- 20K per acre. This is your average run of the mill acreage. Of course anything with a view is around 40K, with riverfront averaging approx. 140K.

I hope it helps, good luck on your bill.

Chas

>From: "aubyna" <aubyna@interbel.net>
>To: "Chas Vincent" <cvvincent@hotmail.com>
>Subject: Need yer help
>Date: Sun, 18 Feb 2007 16:52:35 -0600
>
>Do you have your book on Lincoln county demographics here with you? I
>can't locate mine and need it badly.Could you find out what the average
>cost per acre for real estate in your end of the county the past 3-6
>months? Idon't know who would be most reliable to ask. Thanks, Aubyn

---

aubyna

From: "James Rathbun" <jrathbun@libby.org>
To: "Aubyn Curtiss" <aubyna@interbel.net>
Sent: Wednesday, February 21, 2007 9:35 AM
Subject: Fw: Text of LC 2038, feeze tax constitutional amendment

I had your address wrong. Jim
----- Original Message -----
From: James Rathbun
To: aubyn@interbel.net
Sent: Wednesday, February 21, 2007 8:27 AM
Subject: Fw: Text of LC 2038, feeze tax constitutional amendment

I tried to send this yesterday, but it was returned. Jim
----- Original Message -----
From: James Rathbun
To: lheiman@mt.gov
Cc: aubyn@interbel.net
Sent: Tuesday, February 20, 2007 9:11 PM
Subject: Fw: Text of LC 2038, feeze tax constitutional amendment

I support SB 496 in the name of Aubyn Curtis, aubyn@interbel.net Jim Rathbun, Libby, MT

Here is the text in the email.

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII, SECTION 3, OF THE MONTANA CONSTITUTION AUTHORIZING THE VALUATION OF PROPERTY FOR PROPERTY TAX PURPOSES TO BE BASED ON PRODUCTIVE OR ACQUISITION VALUE; LIMITING VALUATION INCREASES TO 2 PERCENT OR THE RATE OF INFLATION, WHICHEVER IS LESS; PROVIDING THAT RESIDENTS 55 YEARS OF AGE OR OLDER MAY CARRY FORWARD THE VALUATION OF THEIR PRIOR RESIDENCE TO A NEW RESIDENCE; PROVIDING A LIMIT ON THE VALUATION ON RESIDENCES OF FIRST-TIME HOME BUYERS; REQUIRING THAT VALUATIONS DECREASE WHEN PROPERTY VALUES DECREASE; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Article VIII, section 3, of The Constitution of the State of Montana is amended to read:

"**Section 3. Property tax administration -- valuation.** The state shall appraise, assess, and equalize the valuation of all property which is to be taxed in the manner provided by law. Equalization may include valuation based upon the property's productive or acquisition value. A property's value in a class valued by acquisition value may be adjusted annually in a method set by the legislature, but not to exceed 2 percent or the rate of inflation, whichever is less, as long as the property does not change ownership or the property is not improved or otherwise changed. In the manner provided by law:

(1) residents 55 years of age or older may carry forward the valuation of a prior residence to a new residence if the new residence's acquisition cost does not exceed the prior residence's sale price;

(2) the valuation for residences of first-time home buyers may not exceed 70 percent of the acquisition cost for the first year and the valuation shall be increased to 100 percent of acquisition cost over at least six years;

aubyna

From: "Jon Leonard" <jleonard@glacierbank.com>
To: "aubyna" <aubyna@interbel.net>
Sent: Wednesday, February 21, 2007 10:16 AM
Subject: Re: Fw: Text of LC 2038, feeze tax constitutional amendment

Thank-you for all of the updates that you have been sending, Aubyn; they are greatly appreciated. I would like to send the following to you and fellow legislators:

It does appear that 496 is an attempt towards property tax relief. I don't know why the realtor lobby would be against this since the market appraised value is much different than the tax assessment value...at least I see it that way as it stands now. If we were to be taxed on our true market value, I would be taxed off my place tomorrow instead of 10 years from now. There are indications in our valley that 1.5 acre tracks on lakes can go upwards of over $500,000! ...make that your true tax value (or mine) and I am sunk...goodbye family property (I have more than 1.5 acres and I hope to be able to leave it intact for my kids just as my parents and grandparents did for me). The last thing that I also want to see is that this is some twist or attempt to limit the free market on property valuations in the state. This can be very confusing and sounds almost hypocritical; but I want to be able to sell my property for whatever the market will bear (wether that is $1/acre or $1,000,000/acre)...that is free enterprise and capitalism. However, if I chose to work hard and purchase land, keep the family homestead, or whatever...I do not want my state potentially taxing me off the property as the demographics/demand changes in my neighborhood.

Is this wanting the best of both worlds? You bet it is, but to me it seems like the only fair way to keep Montana in tact. I would like to know the pro's and con's on California's Prop 13. I understand that this is basically a property tax "freeze" (with adjustments based on inflation) that passes on increases to new owners down the road.

I understand and respect that governments have the right to levy and raise taxes for all of the common good of the citizens. However, when a state/county starts taxing its long-term land owners off of their property, something has gone astray (no matter what the size or location of the land). Montana is already in the early stages of this dilemma; especially in the Rocky Mountain Corridor. I'm sure that you could talk to legislators from areas such as Whitefish, Hamilton, George Town, Bozeman and find the effects already in place.

I don't know if we all realize what a ticking time bomb that we are sitting on. I keep hearing that Montana is losing its local culture and heritage; there is no "fix all" solution for this, but one step would be to at least give the choice to the citizens to be able to stay on the "family land" by not taxing them off of it.

aubyna

From: "Paul Derrow" <shortstroke@interbel.net>
To: "Aubyn Curtiss" <aubyna@interbel.net>
Sent: Tuesday, February 20, 2007 7:24 PM
Subject: SB496

I AM IN FULL SUPORT OF SB496
Paul Derrow
Fortine Mt. 59918

aubyna

From: "Gina Klempel" <klemlog@aboutmontana.net>
To: <aubyna@interbel.net>
Sent: Wednesday, February 21, 2007 10:39 AM
Subject: SB 496

I support SB 496 its fair and give an incentive to those that can afford it the lease.
Gina Klempel
1484 Ashley Lake Road
Kalispell, Mt. 59901

aubyna

From: "Glenn Garrison" <screwy@kvis.net>
To: "Aubyn Curtiss" <aubyna@interbel.net>
Sent: Wednesday, February 21, 2007 7:52 AM
Subject: Senate Tax Committee re SB 496

I believe we need this bill to give relief to the working class of Montana. We are the ones that have lived here, worked here, paid our taxes, sent our kids to school here, and we are living on a fixed income from working here. We are not the ones that made a lot of money someplace else and moved here.

In some cases even 2% may be to high for some folks to be able to afford to pay for the taxes to live in a home they grew up in.

Glenn Garrison
Box 493
Troy, Mt. 59935

aubyna

From: "Marian Hanson" <marian@rangeweb.net>
To: "aubyna" <aubyna@interbel.net>
Sent: Tuesday, February 20, 2007 10:16 PM
Subject: Hi

I read the text of the SB of Jim Elliot's, and am in support of putting it on the ballot. Hope you can get enough supporters to make it through. Sincerely, Marian W. Hanson

aubyna

From: "Clarice Ryan" <clardon@centurytel.net>
To: <jim@jimelliot.0rg>
Sent: Tuesday, February 20, 2007 11:31 PM
Subject: Faxed message to Taxation Committee SB496

DATE: February 20, 2007

TO: Senator Jim Elliott and all members of the Taxation Committee as follows:
Jerry Black
Jeff Essmann
Kelly Gebhardt
Kim Gillan
Dan Harrington
Christine Klaufmann
Sam Kitzenberg
Jim Peterson
Trudi Schmidt
Robert Stori

SUBJECT: SB 496 (LC 2030) feeze tax constitutional amendment

I consider this amendment of value in that it provides financial protection to elderly and first time home buyers while assuring a reasonable property tax return to the county. I would appreciate your vote of approval on this bill.

Sincerely,

Clarice Ryan
253 Pine Needle Lane
Bigfork, MT 59911
406-837-6929

aubyna

From: "Joe Arts" <joearts@kvis.net>
To: <aubyna@interbel.net>
Sent: Wednesday, February 21, 2007 12:09 AM
Subject: Tax bill

I think this is a good bill and would do the older people of Montana some real good.

I also wish the Republicans and Democrats would forget politics and try to work for the people of Montana instead acting like two groups of spoiled children who can't have it all their own way. I think everyone would benefit.

Sincerely,

Joe Arts

Troy, Montana

aubyna

From: "Fred Hodgeboom" <hodgeboom@centurytel.net>
To: "Aubyn Curtiss" <aubyna@interbel.net>
Cc: "Clarence Taber" <taber@aboutmontana.net>; "Clarice Ryan" <clardon@centurytel.net>; "Ron Olfert" <rolfert@blackfoot.net>; "Jim Sappington" <reps@centurytel.net>; "Craig Osterman" <MtSnowman@snowtana.com>
Sent: Wednesday, February 21, 2007 1:27 PM
Subject: Support SB496

February 21, 2007

Honorable Senator Elliott, Chairman, and Members of the Senate Tax Committee,

SB 496 is a Bill that is necessary to slow the accelerating spiral of property taxes that results in fixed income citizens to be forced out of their secure homes and often into hardship situations. The very unfair process of continually using comparable market data to re-appraise and increase taxable value on Montana homeowners is a huge factor that increases the lack of decent affordable housing, not only for fixed income folks, but for increasing numbers of Montanans that cannot earn enough to own a home or afford the high rent of a decent home.

US Department of Commerce data has shown Montana to be last or nearly last in the Nation for the last 5-10 years in average annual wage per job. A recent study reported in the Kalispell Daily Interlake concluded that 30% of the jobs in Montana will not support a single person and 80% of the jobs will not support a family with two children in a decent house and standard of living.

SB 496 would be a good start on leveling the playing field for hard working Montanans, many of whom are working at several jobs to try to get by, and especially for Montanans who worked and paid mortgages and taxes all their life to own their own home only to see their ever increasing property tax bills eat up their retirement resources to the point that they can no longer cope and are forced to sell. Compound taxation of homeowners continuously over time as if they were actually buying or selling the property at current value must be changed.

Please support SB 496.

Fred D. Hodgeboom, President
Montanans for Multiple Use
406.837-1363

aubyna

From: "Gary E Hall" <garius@centurytel.net>
To: "Aubyna" <aubyna@interbel.net>
Sent: Tuesday, February 20, 2007 11:37 PM
Subject: SB496

Mr. Chairman and Members of the Committee:

Please pass SB 496. This bill provides a reasonable way to slow the sharp escalation of property valuations that has been occurring in growth counties like the Flathead. People should not have to sell their property just because they cannot afford the taxes. This is especially true of older residents like myself. I have lived in this same house for 30 years. I kinda like it. I don't want to live anywhere else. I do think you should amend the bill to make the first time buyers exemption apply only to lower priced single familly residences.

Please enter my comments into the record for the hearing on SB 496

Thank You

Gary E Hall
POB 133
Olney, MT 59927

private property in these remote locations is in high demand, driving once affordable prices out of the reach of the average Montanan. As property prices sky rocket, assessment values soar into levels that are inhibiting their ability to acquire and retain property.

We know that we cannot stop the market trends. We know that we can't keep these people from coming, and we know why they are here. Montana is the last best place- and it has been discovered. What we can do is protect those fortunate enough to have gotten here first by giving them stability in their investment.

SB 496 provides the means by which fourth generation Montanans like myself can use to raise a fifth. Please join Senator Curtis in her efforts to preserve the cultural fabric that was sewn together to create Montana's unique heritage. Please support SB 496.

Rep. Chas Vincent

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	SB0496	Title:	Constitutional amendment to allow acquisition value for property taxation
Primary Sponsor:	Curtiss, Aubyn	Status:	As Introduced

☑ Significant Local Gov Impact ☐ Needs to be included in HB 2 ☑ Technical Concerns

☐ Included in the Executive Budget ☑ Significant Long-Term Impacts ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
Revenue:				
General Fund	$0	$0	$0	$0
Net Impact-General Fund Balance	$0	$0	$0	$0

Description of fiscal impact:
This bill authorizes the state to use acquisition or production value to establish property values for property tax purposes. Under the bill, the increases in property values are limited. If this bill results in an enactment of the utilization of acquisition or production value for property tax purposes, there will be a gradual, but significantly smaller property tax base. If mill levies are not increased to compensate for the smaller property tax base, revenues will decrease.

FISCAL ANALYSIS

Assumptions:
1. Under current law the state is required to appraise, assess, and equalize the valuation of property that is to be taxed. All property, except property that is specifically excepted by statute, is appraised at market value. Section one of this bill would amend Article VIII, Section 3 of the Montana Constitution to allow the state to equalize property valuation by basing value on acquisition value or productivity value. The value of property that is valued based on acquisition or productivity would be allowed to increase at the lesser of the rate of inflation or 2 percent. Subsection (1) allows residents 55 or older to carry forward the

valuation of a prior residence if the acquisition cost of the new residence does not exceed the sale price of the prior residence. Subsection (3) requires that the valuation of the residence of a first-time home buyer to be 70 percent of the acquisition cost for the first year, and to be increased to 100 percent of the acquisition cost over a period of at least 6 years. Subsection (3) requires that valuation must decrease when property values decrease. Subsection (4) allows the legislature to provide other adjustments that the legislature considers appropriate consistent with "this section".

2. Section 2 of this bill provides for an effective date of January 1, 2009, if this amendment to the Constitution is approved by the electorate.
3. Section 3 requires that this constitutional amendment be submitted to the voters in the November 2008 general election.

Effect on County or Other Local Revenues or Expenditures:

If this bill results in an enactment of the utilization of acquisition and production value for property tax purposes, there will be a smaller tax base upon which counties may impose mill levies. Revenue will decrease if mill levies are not increased.

Long-Range Impacts

The impacts of the bill will begin upon enactment and continue into the future.

Technical Notes:

1. This bill has no direct impact to the Department of Revenue. However, a companion bill passed by the Legislature requiring the department to value property based on acquisition cost would have large administrative costs. This companion bill could be passed by the Legislature no earlier than the 2009 Legislative Session.

		[signature]	2/20/07
Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*

Fiscal Note 2009 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	SB0378	**Title:**	Standardize income tax definitions and interpretation with federal law
Primary Sponsor:	Gillan, Kim	**Status:**	As Introduced

- ☐ Significant Local Gov Impact
- ☑ Needs to be included in HB 2
- ☑ Technical Concerns
- ☐ Included in the Executive Budget
- ☐ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$99,000	$99,000	$101,475	$104,012
Revenue:				
General Fund	$0	$0	$0	$0
Net Impact-General Fund Balance	($99,000)	($99,000)	($101,475)	($104,012)

Description of fiscal impact: This legislation will require expenditures to train staff on federal definitions and regulations.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

1. The impact of this legislation on revenues is unknown. The effect on expenditures is partially known. An unknown amount of resources will be expended to litigate issues arising from adopting new legal standards for Montana's law and to analyze and write new rules to comply with the requirement to incorporate federal law, rules, and judicial interpretations into state rules.
2. The known portion of the expenditures is that this legislation would require 33 Department of Revenue staff to receive training to gain and maintain up-to-date knowledge of constantly-changing federal tax law, regulations, rulings, procedures, and case law. This training is estimated to cost $3,000 per person for a total expenditure of $99,000 each fiscal year.
3. The expenditures are inflated 2.5% for FY 2010 and FY 2011.

SB 378

Fiscal Impact:	**FY 2008 Difference**	**FY 2009 Difference**	**FY 2010 Difference**	**FY 2011 Difference**
Expenditures:				
Operating Expenses	$99,000	$99,000	$101,475	$104,012
TOTAL Expenditures	$99,000	$99,000	$101,475	$104,012
Funding of Expenditures:				
General Fund (01)	$99,000	$99,000	$101,475	$104,012
TOTAL Funding of Exp.	$99,000	$99,000	$101,475	$104,012
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($99,000)	($99,000)	$101,475	$104,012

Effect on County or Other Local Revenues or Expenditures:

1. None.

Long-Range Impacts:

1. None.

Technical Notes:

1. This legislation does not provide criteria for when a different definition is "clearly required." Such ambiguous language is open to broad interpretation and will likely result in an increased need for rulemaking and a significant increase in litigation against the Department of Revenue.
2. This legislation does not address areas where federal provisions differ from Montana law. For example, federal provisions address REITs and the built-in gain of S. Corporations, but Montana has not passed legislation to address these concerns.

		DEwer	2/19/07
Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*

Fiscal Note 2009 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	SB0220	**Title:**	Tax law administration -- transactions, compliance, withholding, class 8 exempt.
Primary Sponsor:	Elliott, Jim	**Status:**	As Introduced

- ☐ Significant Local Gov Impact
- ☐ Needs to be included in HB 2
- ☐ Technical Concerns
- ☑ Included in the Executive Budget
- ☐ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2007 Difference	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:					
General Fund	$0	$342,292	$314,232	$322,088	$330,140
State Special Revenue	$0	$0	$0	$0	$0
Revenue:					
General Fund	$881,077	$12,039,473	$10,837,598	$11,600,118	$12,432,760
State Special Revenue	($57,376)	($153,456)	($160,055)	($166,937)	($174,115)
Net Impact-General Fund Balance	$881,077	$11,697,181	$10,523,366	$11,278,030	$12,102,620

Description of Fiscal Impact:

This bill consists of four parts. Sections 1 through 14 relate to taxpayer reporting requirements. Sections 1 through 7 require additional reporting of potentially abusive tax avoidance transactions and impose penalties for failure to report and for using abusive tax avoidance transactions to mis-state income or corporate tax liability. Sections 8 through 14 require corporations to provide information about their tax returns filed in other states. Sections 15 through 17 provide a voluntary compliance program for taxpayers who have engaged in an abusive tax avoidance transaction. Sections 18 through 24 require withholding for taxes on capital gains from the sale of real estate, other than the seller's principle residence, by non-residents. Section 25 increases the Class 8 property tax exemption from $20,000 to $150,000.

FISCAL ANALYSIS

Assumptions:

Reporting Requirements (Sections 1-14)

1. Section 3 requires taxpayers who have used potentially abusive tax avoidance transactions, as defined by the IRS or the Department of Revenue, to report those transactions and provides penalties for failing to report them. Section 4 requires parties who have assisted taxpayers in using potentially abusive tax

avoidance transactions to report those transactions and provides penalties for failure to report. Section 5 provides penalties for promoting tax shelters and assisting taxpayers in mis-stating income or tax liability. Section 8 requires corporations that file tax returns in Montana and other states to provide information from those returns to the Department of Revenue to allow the department to determine whether the information is consistent.

2. The reporting requirements and penalties in Sections 1 through 14 will increase voluntary compliance with the individual income tax and corporation license tax and will make it easier for the Department to detect taxpayers who are not in compliance. Based on the size and number of cases identified using information shared by other states, this is expected to produce $3.2 million per year in additional revenue beginning in FY 2009.

Voluntary Compliance Initiative (Sections 15-17)

3. Sections 15 through 17 would allow taxpayers who have used abusive tax avoidance transactions to file amended returns and pay tax due from previous years in September through December of 2007 with no civil or criminal penalties.
4. Several states have conducted similar voluntary compliance programs. Four states, California, New York, North Carolina, and Illinois provided information on the results of their programs that distinguished between payments from corporations and individuals.
5. For these states, increased individual income tax collections were divided by the highest individual marginal tax rate to give an estimate of the increase in reported taxable income. For each state, the increase in taxable income was multiplied by the ratio of Montana's 2005 personal income to that state's 2005 personal income to give a proportionate increase in taxable income for Montana. These were then multiplied by the top marginal tax rate of 6.9% to give equivalent increases in Montana personal income tax revenue.
6. Similarly, increased corporation income tax collections in each of the four states was divided by that state's corporate tax rate, multiplied by the ratio of Montana's 2005 gross state product to the other state's gross state product and then multiplied by the Montana corporation tax rate of 6.75% to give equivalent increases in Montana corporation tax revenue.
7. The total increases in Montana tax liability equivalent to the results from the four states ranged from $10.2 million to $22.5 million with an average of $16.53 million Montana differs in some ways from states that have already run programs. Therefore, it is conservatively estimated that a voluntary compliance program in Montana would be half as successful as the least successful program in the four states, producing $5.1 million in additional revenue in FY 2008.

Real Estate Withholding (Sections 18-24)

<u>Residential Property</u>

8. In 2005, records from the department's property tax database (CAMAS) combined with sales history file data reveal a total of 989 with a total sales amount of at least $100,000 class 4 real property sales by non-residents totaling $401,843,532 in sales.
9. Section 20 of the bill provides that the withholding amount required is either 2.5% of the sales price or the amount of the transferor's certified calculated gain multiplied by the highest rate of tax. It is assumed non-resident sellers will choose the lower of the two amounts.
10. To determine the amount of additional non-resident withholding revenue this bill will generate, the department did a study to determine the rate of non-compliance. Based on tax year 2003, business and income tax staff found that 70% of non-residents failed to file state tax returns on the gain of sales for class 4 property.
11. A random sample of 692 recorded sales, or 70%, of the 989 non-resident sales in 2005 were selected to provide data for this fiscal note. The total sales amount for these 692 records was $244,525,855.

12. Of the 989 total sales in calendar year 2005, 657 records had a previous sales amount. Based on a review of these 657 sales, the most frequent percentage gain was 47%.
13. Multiplying the $244,525,855 x 47% results in an estimated $114,927,152 in unreported capital gains on class 4 sales.
14. At a 4% tax rate (6% average income tax rate less the 2% capital gains credit), the resulting tax revenue from unreported capital gains on sales of real property is estimated as $4,597,086 ($114,927,152 X 4%).

Agricultural Property

15. For class 3 Agricultural Land, based on the property's class code, a per acre value was selected from the appropriate USDA 2005 average value per acre for the particular type of land (farm real estate, cropland, irrigated, non-irrigated, and pasture acreage). In 2005, there were 2,341 class 3 sales agricultural land sales by non-residents. Multiplying the acreage quantity by the appropriate USDA per acre rate resulted in estimated sales of $148,869,350.
16. A randomly selected sample of 1,639 observations was drawn from the 2005 agricultural land sales. Based on this sample, in 2005 agricultural land properties totaling $107,287,457 in sales were sold by non-residents for gains that were not reported.
17. From 1994-2004, the USDA average increase in the value of farmland was 4.93% per year for a 62% increase over 10 years. This rate was used to estimate unreported capital gains of $66,518,223 ($107,287,457 X 62%) on the agricultural land sales. Applying a 4% tax results in revenue of $2,660,729 ($66,518,223 X 4%).

Total Additional Withholding Revenues

18. Combining the anticipated unreported capital gains from class 3 and class 4 sales results in $7,257,815 in estimated revenue from sales in 2005. The Center for Applied Economic Research reports that between 1999 and 2003, the average home price increased at an annual rate of growth of 8.6%. Data maintained by the Federal Reserve Bank of Kansas City indicates fairly comparable land value changes for agricultural farmland since the first half of 2004. Therefore this growth rate was used to estimate revenues which are projected to be $9,295,984 in FY 2008, $10,095,439 in FY 2009, and $10,963,646 in FY 2010, and $11,906,520 in FY 011.

Increase Class 8 Threshold (Section 25)

19. Section 25 of this bill raises the threshold exemption amount for class 8 property. Under current law, the threshold exemption amount is $20,000 for class 8 property. The current law exemption amount is a statewide aggregate total amount of class 8 property owned by an individual or business entity.
20. Effective for tax year 2008, the proposal would raise the statewide aggregate exemption amount to $150,000.
21. Under current law, 17,328 business entities or individuals were subject to class 8 property tax in tax year 2006. Of the total, 14,095 owned class 8 equipment of $150,000 or less in aggregate market value for a total market value of $804,229,950 and taxable value of $24,127,318.
22. An adjustment was made for state general revenues to remove the $858,040 in taxable value of property located in a tax increment financing (TIF) district since the 95 mill tax revenue from this property is retained by the TIF district. Adjusting for TIF districts, the taxable value of class 8 equipment in tax year 2006 that would have been exempted under this bill is $23,269,278 ($24,127,318 – $858,040).
23. The statewide 95 mill levy and the 1.5 college of technology mill levy must be applied to the estimated taxable value of the exempt property to calculate the loss in state general fund revenue. The average statewide mill applied to the taxable value is 95.5351537649807. The tax year 2006 revenue loss associated with the 95 mill levy would have been $2,223,034 ($23,269,278 x 0.0955351537649807).

24. The statewide university 6 mill levy must also be applied to the estimated taxable value of exempt property to calculate the loss in state special revenue. TIF districts do not affect this mill levy. The tax year 2006 revenue loss association with the 6 mill levy would have been $144,764 ($24,127,318 x 0.006).
25. The class 8 growth rate forecast by HJR 2 is 4.3% for FY 2008 and FY 2009. For the purposes of this fiscal note, the growth rate is assumed to be 4.3% for FY 2010 and FY 2011.
26. Revenue loss associated with the 95 and 1.5 mill levies is forecast to be $2,318,625 ($2,223,034 x 1.043) in tax year 2007, $2,418,325 ($2,318,625 x 1.043) in tax year 2008, $2,522,313 ($2,418,325 x 1.043) in tax year 2009, $2,630,773 ($2,522,313 x 1.043) in tax year 2010, and $2,743,896 ($2,630,773 x 1.043) in tax year 2011.
27. Revenue loss associated with the 6 mill levy is forecast to be $150,989 ($144,764 x 1.043) in tax year 2007, $157,481 ($150,989 x 1.043) in tax year 2008, $164,253 ($157,481 x 1.043) in tax year 2009, $171,316 ($164,253 x 1.043) in tax year 2010, and $178,683 ($171,316 x 1.043) in tax year 2011.
28. For class 8 property, fiscal year tax payments are not based on the prior calendar year taxable value as are other classes of property. Class 8 property not liened to real property (38%) is taxed in the spring of the calendar year. Class 8 property liened to real property (62%) is collected in the following fiscal year when the normal property tax payments are made in November and May. Therefore, FY 2008 taxable value is 62% of calendar year 2007 taxable value and 38% of calendar year 2008 taxable value, etc.
29. The increase to the class 8 exemption threshold under this bill has a partial year impact on property tax revenue in FY 2007. The bill will cause a general fund revenue loss of $881,077 ($2,318,625 x 0.38) in FY 2007, $2,356,511 (($2,318,625 x 0.62) + ($2,418,325 x 0.38)) in FY 2008, $2,457,841 (($2,418,325 x 0.62) + ($2,522,313 x 0.38)) in FY 2009, $2,563,528 (($2,522,313 x 0.62) + ($2,630,733 x 0.38)) in FY 2010, and $2,673,760 (($2,630,733 x 0.62) + ($2,743,896 x 0.38)) in FY 2011.

Summary of General Fund Revenue Impacts

Bill Provision	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Reporting Requirements			$3,200,000	$3,200,000	$3,200,000
Voluntary Compliance		$5,100,000			
Real Estate Withholding		$9,295,984	$10,095,439	$10,963,646	$11,906,520
General Fund Revenue Increases		$14,395,984	$13,295,439	$14,163,646	$15,106,520
Minus Class 8 Threshold	($881,077)	($2,356,511)	($2,457,841)	($2,563,528)	($2,673,760)
General Fund Revenue Impact	($881,077)	$12,039,473	$10,837,598	$11,600,118	$12,432,760

30. The bill will cause a state special revenue loss of $57,376 ($150,989 x 0.38) in FY 2007, $153,456 (($150,989 x 0.38) + ($157,481 x 0.62)) in FY 2008, $160,055 (($157,481 x 0.38) + ($164,253 x 0.62)) in FY 2009, $166,937 (($164,253 x 0.62) + ($171,316 x 0.38)) in FY 2010, and $174,115 (171,316 x 0.62) + ($178,682 x 0.38)).

Department of Revenue Administrative Costs

31. To administer the non-resident withholding requirement, the department would require an additional 2.00 FTE. To administer the Class 8 equipment threshold reduction, the department would require an additional 3.00 FTE auditors. The personal services cost is $274,176 a year.
32. The associate operating expenses would be $38,616 in FY 2008 and $40,056 in FY 2009.
33. One-time-only equipment expenses in FY 2008 would be $29,500.
34. Expenses are applied an inflation factor of 2.5% per year in FY 2010 and FY 2011.

	FY 2007 Difference	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Fiscal Impact:					
FTE	0.00	5.00	5.00	5.00	5.00
Expenditures:					
Personal Services	$0	$274,176	$274,176	$281,030	$288,056
Operating Expenses	$0	$38,616	$40,056	$41,057	$42,084
Equipment	$0	$29,500	$0	$0	$0
TOTAL Expenditures	$0	$342,292	$314,232	$322,088	$330,140
Funding of Expenditures:					
General Fund (01)	$0	$342,292	$314,232	$322,088	$330,140
State Special Revenue (02)	$0	$0	$0	$0	$0
TOTAL Funding of Exp.	$0	$342,292	$314,232	$322,088	$330,140
Revenues:					
General Fund (01)	$881,077	$12,039,473	$10,837,598	$11,600,118	$12,432,760
State Special Revenue (02)	($57,376)	($153,456)	($160,055)	($166,937)	($174,115)
TOTAL Revenues	$823,701	$11,886,017	$10,677,543	$11,433,181	$12,258,645
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):					
General Fund (01)	$881,077	$11,697,181	$10,523,366	$11,278,030	$12,102,620

Effect on County or Other Local Revenues or Expenditures:

1. Sections 1-17 of this bill should have no significant impacts on local government revenues or expenditures.
2. There may be additional costs incurred by county clerks and recorders in administering Sections 18-24 of this bill. These costs are not anticipated to be significant.
3. Section 25 will have significant impacts on local governments and school district revenues if the taxable value loss is not reimbursed by the State of Montana
4. The estimated loss in taxable value to local jurisdictions is $25,164,793 in FY 2008, $26,246,879 in FY 2009, $27,375,495 in FY 2010, and $28,552,641 in FY 2011.
5. The statewide average mill levy for property in tax year 2006 is 526.84 mills. Removing the states 101.54 (95.54 + 6) mills, local governments and schools would have an estimated average statewide mill levy of 425.30 (526.84 – 101.54).
6. Without mill levy increases, the associated revenue loss to local governments and school districts under the proposal is estimated to be $10,261,348 ($24,127,381 x .4253) in tax year 2007, $10,702,586 ($25,164,793 x .4253) in tax year 2008, $11,162,798 ($26,246,879 x .4253) in tax year 2009, $11,642,798 ($27,375,495 x .4253) in tax year 2010, and $12,143,438 ($28,552,641 x .4253) in tax year 2011. Because of the timing of property tax payments with 38% occurring in May and 62% in November, the estimated loss by fiscal year is as follows:
   - FY 2007: $3,899,312 ($10,261,348 x 0.38)
   - FY 2008: $10,429,019 (($10,261,348 x 0.62) + ($10,702,586 x 0.38))
   - FY 2009: $10,877,467 (($10,702,586 x 0.62) + ($11,162,798 x 0.38))
   - FY 2010: $11,345,198 (($11,162,798 x 0.62) + ($11,642,798 x 0.38))
   - FY 2010: $11,833,041 (($11,642,798 x 0.62) + ($12,143,438 x 0.38))
7. Under 15-10-420, MCA, county and city governments could float their mill levies to offset this property tax revenue loss. Since the amount of loss associated with this bill is significant, mill levy increases could be large; this would shift the impacts onto other taxpayers.

Long-Range Impacts:
These revenue impacts will continue into the future.

Technical Notes:
1. Legislation to reimburse local government for the loss of property tax revenue from the increasing the class 8 business equipment threshold exemption has been drafted, but not introduced.

Sponsor's Initials	*Date*	*Budget Director's Initials*	1/23/07 *Date*